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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, ) Criminal No. CR 3-07-70694 BZ

Plaintiff,

V.

ROBERTO IMSON LAMMATAO

Defendant.

**[PROPOSED] ORDER AND  
STIPULATION EXCLUDING TIME  
FROM DECEMBER 19, 2007 TO  
DECEMBER 26, 2007**

The parties appeared before the Honorable Maria Elena James on December 19, 2007.

With the agreement of counsel for both parties the Court found and held as follows:

1. The Court vacated the preliminary hearing date of December 6, 2007, setting a new preliminary hearing date on December 26, 2007, at 9:30 a.m. before the duty magistrate judge, extending the time for the preliminary hearing under Federal Rule of Criminal Procedure 5.1, and extending the 30-day time period for indictment and excluding time under the Speedy Trial Act from December 19, 2007, to December 26, 2007. The parties agree, and the Court finds and holds, as follows:

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1           2. Counsel for defendant is reviewing the evidence to determine whether a pre-charge  
2 disposition is appropriate. Only after evaluating the evidence will counsel be in a position to  
3 evaluate what disposition is an appropriate one. He also believes it is his best interest to consult  
4 with an immigration attorney regarding this case.

5           3. Taking into account the public interest in the prompt disposition of criminal cases,  
6 these grounds are good cause for extending the time limits for a preliminary hearing under  
7 Federal Rule of Criminal Procedure 5.1 and for extending the 30-day time period for indictment  
8 and excluding time under the Speedy Trial Act. Failing to grant the continuance would deny  
9 defense counsel the reasonable time necessary for effective preparation, taking into account the  
10 exercise of due diligence. 18 U.S.C. § 3161(h)(8)(B)(iv). The Court also finds that the ends of  
11 justice outweigh the best interest of the public and the defendant in a speedy trial. Id. §  
12 3161(h)(A).

13           4. Accordingly, and with the consent of the defendant, the Court (1) vacates the  
14 December 19, 2007, preliminary hearing date, extends the time for a preliminary hearing until  
15 December 26, 2007, and sets a preliminary hearing before the duty magistrate on December 26,  
16 2007, at 9:30 a.m., and (2) orders that the period from December 19, 2007, to December 26,  
17 2007, be excluded from the time period for preliminary hearings under Federal Rule of Criminal  
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Procedure 5.1 and from Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(8)(A) and (B)(iv).

IT IS SO STIPULATED.

DATED: 12/26/07

/s/  
GILBERT EISENBERG  
Counsel for the defendant

DATED: 12/24/07

IT IS SO ORDERED.

DATED: \_\_\_\_\_

**THE HON. MARIA ELENA JAMES**  
United States Magistrate Judge

**[PROPOSED] ORDER AND  
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